

## § 361.5

match the Federal funds on a 50 percent cash match basis.

(b) States which did not receive a grant before October 1, 1990, will assume cost sharing on a phased-in basis over a period of four years with the full cost sharing requirements being implemented in the fourth year. The sequence is as follows:

(1) For the first fiscal year, cost sharing will be voluntary. FEMA will provide State assistance without requiring a State match. Those States that are able to cost-share are encouraged to do so (on either a cash or in-kind basis).

(2) For the second fiscal year, the minimum acceptable non-Federal contribution is 25 percent of the total project cost, which may be satisfied through an in-kind contribution. Those States that are able to cost-share on a cash-contribution basis are encouraged to do so.

(3) For the third fiscal year, the minimum acceptable non-Federal contribution is 35 percent of the total project cost, which may be satisfied through an in-kind contribution. Those States that are able to cost-share on a cash-contribution basis are encouraged to do so.

(4) For the fourth and subsequent fiscal years, full cost sharing will be implemented, requiring a minimum of a 50 percent non-Federal contribution to a State program, with this share required to be cash. In-kind matching will no longer be acceptable. Thus, every dollar FEMA provides to a State must be matched by one dollar from the State. States that can contribute an amount greater than that required by the match are permitted and encouraged to do so. However, State assistance will not exceed the established target allocation.

(c) The State contribution need not be applied at the exact time of the obligation of the Federal funds. However, the State full matching share must be obligated by the end of the project period for which the State assistance has been made available for obligation under an approved program or budget.

(d) In the event a State interrupts its participation in this program, if it later elects to participate again, the nature and amount of that State's cost sharing shall be determined by the reg-

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ulations then in effect, taking into account the number of years in which the State previously participated.

### **§ 361.5 Criteria for program assistance, matching contributions, and return of program assistance funds.**

(a) In order to qualify for assistance, a State must:

(1) Demonstrate that the assistance will result in enhanced seismic safety in the State;

(2) Provide a share of the costs of the activities for which assistance is being given, in accordance with § 361.4; and

(3) Demonstrate that it is taking actions to ensure its ability to meet the 50 percent cash contribution commitment either on an ongoing basis or for new States, by the fourth year of funding.

(i) The Governor of newly participating State must certify to the FEMA Regional Director the State will take steps to meet the 50 percent cash contribution requirement after the third year of funding. The specific steps to be taken will be outlined in the certification which must be submitted prior to the State receiving program funds.

(ii) The Governor must certify the State's continued commitment in the second and third years of funding. The certification will describe the progress made on the steps contained in the previous year's certification and steps to be taken in the future. The certification must be submitted to the Regional Director before the State will receive program funds.

(iii) If a State encounters difficulties meeting the 50 percent cash contribution requirement for the target allocation following the fourth year of funding, the Regional Director may require the Governor to continue certifying the State is working to resolve the difficulty.

(iv) A State will not receive Federal funds if it cannot provide the required cash contribution.

(b) The value of any resources accepted as a matching share under one Federal agreement or program cannot be counted again as a contribution under another.

(c) The State seeking the match shall submit documentation sufficient for

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FEMA to determine that the contribution meets the following requirements. The match shall be:

(1) Necessary and reasonable for proper, cost-effective and efficient administration of the project, allocable solely thereto, and except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State and local governments;

(2) Verifiable from the recipient State's records;

(3) Not allocable to or included as a cost of any other Federally financed program in either the current or a prior period;

(4) Authorized under State law;

(5) Consistent with any limitations or exclusions set forth in these regulations, Federal laws or other governing limitations as to types of cost items;

(6) Accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(7) Provided for in the approved budget/workplan of the State; and

(8) Consistent with OMB Circular A-87, "Cost Principles for State and Local Governments," and with 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(d) A State must submit and FEMA must approve a statement of work before the State receives any grant funds. The statement of work and target allocation of funds are based on a 12-month performance period. Except under extenuating circumstances, the funds initially obligated to the State will be based on the amount of time remaining in the performance period at the time the statement of work is approved. (Approved by the Office of Management and Budget under OMB control number 3067-0170.)

(e) States are expected to perform activities and therefore expend funds on a quarterly basis in accordance with the approved statement of work. At the end of the third quarter, State and FEMA regional office staff will review the State's accomplishments to date. Funds not expended in accordance with the approved statement of work by the end of the third quarter of the perform-

ance period will not be made available to the State unless the State can demonstrate, and FEMA approves, its ability to perform activities adequately resulting in the expenditure of the funds by the end of the performance period.

### § 361.6 Documentation of matching contributions.

(a) The statement of work provided by the State to FEMA describing the specific activities comprising its earthquake hazards reduction project, including the project budget, shall reflect a level of effort commensurate with the total of the State and FEMA contributions.

(b) The basis by which the State determines the value of an in-kind match must be documented and a copy retained as part of the official record.

(c) The State shall maintain all records pertaining to matching contributions for a three-year period after the date of submission of the final financial report required by the CCA, or date of audit, whichever date comes first.

### § 361.7 General eligible expenditures.

(a) Expenditures must be for activities described in the statement of work mutually agreed to by FEMA and the State during the annual negotiation process, or for activities that the State agrees to perform as a result of subsequent modifications to that statement of work. These activities shall be consistent with the definition of eligible activities in § 361.2.

(b) The following is a list of eligible expenditures. When items do not appear on the list they will be considered on a case-by-case basis for policy determinations, based on criteria set forth in § 361.5. All costs must be reasonable, and consistent with OMB Circular A-87.

(1) Direct and indirect salaries or wages (including overtime) of employees hired specifically for carrying out earthquake hazards reduction activities are eligible when engaged in the performance of eligible work.

(2) Reasonable costs for work performed by private contractors on eligible projects contracted for by the State.